

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

I. Disposition of Claims

Claims 29-48 are pending in this application. Claims 29 and 40 are independent. The remaining claims depend, directly or indirectly, from claims 29 and 40. Claims 29 and 40 have been amended in this reply. No new matter was added by way of these amendments.

II. Rejection under 35 U.S.C § 103

Claims 29-48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,851,149 (“Xidos”) in view of U.S. Patent No. 6,336,095 (“Rosen”). Claims 29 and 40 have been amended in this reply to clarify the present invention recited. To the extent that this rejection may still apply to the amended claims, the rejection is respectfully traversed.

A. Broadcast Event

Claims 29 and 40 have been amended to more clearly define the present invention. In particular, the claims 29 and 40 have been amended to recite, “wherein an outcome of the broadcast event is *not* produced in response to a user.” In one or more embodiments of the present invention, a broadcast event includes televised sporting

event, casino-type games, computer generated games, and pre-recorded events, *etc.* Therefore, in the present invention, the interactive gaming is in response to an outcome of a broadcast event. In one example, interactive gaming as recited in claims 29 and 40 may be considered “third-party” participation, *i.e.*, the user makes wagers in response to the outcome of the broadcast event. However, in third-party participation, the user cannot effect the outcome of the broadcast event. For example, in a televised horse race, action of a user as a viewer cannot cause one horse to outrun another. Therefore, in the claimed invention, gaming data is processed in response to the outcome of the horse race.

In contrast, Xidos teaches a gaming system in which the outcome is produced in response to the user. In particular, Xidos teaches toward card games, such as, draw-poker, 8-liner, keno, blackjack (col. 5, ll. 44-46). In Xidos, the user’s participation in the card game produces the results, which determine the overall outcome of the game. Therefore, interactive gaming as taught by Xidos relates to “first-party” participation, *i.e.*, the user makes wagers in response to the outcome of an event in which the user has a direct effect on the outcome. For example, Xidos provides a description of a user in “first-party” participation:

After setting the bet amount, the player uses the Deal/Draw/Spin button to start the game hand. Five cards are dealt to the player and these are displayed; using buttons marked Card 1 to Card 5, the player designates card(s) to be held. To unhold a card, the designated Card button is pressed again; alternatively, the player may unhold all cards by pressing the Cancel button. (col. 5, ll. 54-60)

In this example, the user decides what cards to hold and unhold, which affects the final outcome of the game. Xidos is completely silent to a gaming system as recited in

claims 29 and 40, where the outcome is not in response to the user. For example, the instant specification states,

[in reference to Figure 5] [a]t step 5005, the user chooses the horse he wishes to bet on...At step 5009 the user chooses his stake...Following the results of the race, the gaming system server calculates the winnings and losses for the user. (Please see page 24 of the specification.)

In this embodiment of the present invention, the user initiates bets in response to the broadcast event, but the results are completely independent of the user's choices of the horse and/or the stakes. Thus, the claimed invention relates to "third-party" participation, *i.e.*, gaming in relation to the broadcast event, whereas Xidos relates to "first-party" participation, *i.e.*, gaming in relation to results produced by the user.

B. Subscription Card Reading Device

Secondly, Xidos is completely silent to a receiver/decoder as recited in claim 29. In particular, Xidos does not teach a receiver/decoder including "a subscription card reading device for interacting with a user's subscription card for providing access to a broadcast event," as recited in claim 29. Similarly, Xidos is completely silent to "interacting with a user's subscription card for providing access to a broadcast event," as recited in claim 40. In fact, the infrastructure taught by Xidos (that of a hotel) expressly teaches away from the use of a subscription card as recited in the claims 29 and 40.

In Figure 1, Xidos teaches "[a] distributed gaming system 10 in accordance with the invention provides a user, such as a hotel guest, with the opportunity to participate in

gaming directly from a remote location such as a hotel room,” (col. 4, ll. 17-20).

Xidos further states that “the distributed or hotel gaming system includes a set-top box 12 in a hotel room 13, the set-top box 12 in communication with a television 14, payment device 16 and back office server 18 centrally located in a hotel office 19,” (col. 4, ll. 27-30). A set-top box as taught by Xidos does not have a subscription card, because a signal is already in clear form. In fact, in a hotel, generally the descrambling of a signal is not performed at individual rooms, but rather descrambling occurs in the hotel office, where the signal is then distributed to the individual rooms. In other words, a receiver/decoder is not within the individual rooms, but located in a hotel office.

Further, in most hotel television systems, a user may use the television controls and/or the remote control of the television to access various channels, including promotional channels, *e.g.*, pay-per-view, *etc.* Upon accessing a promotional channel, the user’s hotel bill or credit card is charged for viewership. Xidos uses this infrastructure to provide a hotel gaming system, for example, “[w]ith a remote control unit 20, the hotel guest turns on the television 14 and tunes the set to the channel identified as the gaming channel. By pressing any channel button, the customer can move to and from the gaming channel,” (col. 5, ll. 4-7). Consequently, Xidos is silent as to using a subscription card, and, furthermore, teaches away from using a subscription card.

C. Electronic Certificate

Finally, the Applicant notes that an electronic certificate is not a limitation of independent claims 29 and 40, but rather is a feature of dependent claims 30 and 41.

Thus, claims 30 and 41 were rejected under 35 U.S.C. §103(a) as being unpatentable over Xidos in view of Rosen.

However, Rosen fails to provide that which Xidos lacks with respect to a broadcast event and a subscription card-reading device. Rosen is completely silent to a broadcast event as recited in claims 29 and 40, in addition to a subscription card-reading device. Accordingly, withdrawal of the §103 rejection is respectfully requested.

Claims 29 and 40 are patentable over Xidos and Rosen, whether considered separately or in combination, and thus, any claims depending from independent claims 29 and 40 are likewise patentable for at least the same reasons.

III. Concluding Remarks

Applicant believes this reply to be fully responsive to all outstanding issues and place this application in condition for allowance. If this belief is incorrect, or other issues arise, do not hesitate to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345.025001).

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Respectfully submitted,

45,925
Jonathan P. Osha
Jonathan P. Osha, Reg. No. 33,986
ROSENTHAL & OSHA L.L.P.
1221 McKinney Street, Suite 2800
Houston, TX 77010

Telephone: (713) 228-8600
Facsimile: (713) 228-8778